

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

CASSANDRA POPPEN

VS.

FLETCHER TRANSPORT, INC. AND  
JASON O'NEAL

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CIV. NO 5:16-CV-00810

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DEFENDANTS' UNOPPOSED MOTION TO CONSOLIDATE  
AND MEMORANDUM IN SUPPORT THEREOF

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TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Fletcher Transport, Inc. and Jason O'Neal ("Defendants"), Defendants in the above-styled and numbered cause, and file this Unopposed Motion to Consolidate and Memorandum in Support Thereof, and in support of said pleading, would show unto this Honorable Court as follows:

I. Basis for Motion

1. On June 30, 2016, Plaintiff Cassandra Poppen filed suit in Bexar County against Defendants asserting claims of negligence, *respondeat superior*, and negligent entrustment/negligent undertaking arising out of a motor vehicle collision that occurred on or about September 23, 2015 on Interstate 410 in Bexar County, San Antonio, Texas.
2. On August 15, 2016, the case was removed on diversity grounds to the United States District Court for the Western District of Texas, San Antonio Division.
3. On February 7, 2017, Defendants were served with another lawsuit filed by Daniel Tashi on December 2, 2016, for the very same accident at issue in this case. Mr. Tashi's case was

subsequently assigned Cause No. 2016CI20724 in the District Court for the 285<sup>th</sup> Judicial District, Bexar County, Texas.

4. On February 13, 2017, Defendants answered Mr. Tashi's Original Petition in the 285<sup>th</sup> Judicial District, Bexar County, Texas.

5. On February 14, 2017, Defendants filed their Notice of Removal on diversity grounds.

6. On February 17, 2017, Defendants were notified that the case had been reassigned and removed to the United States District Court for the Western District of Texas, San Antonio Division with the Hon. David A. Ezra presiding over Civil Action No.: 5:17-CV-119-DAE, *Daniel Tashi v. Fletcher Transport, Inc. and Jason O'Neal*.

7. Defendants respectfully move for consolidation of Civil Action No.: 5:17-CV-119-DAE, *Daniel Tashi v. Fletcher Transport, Inc. and Jason O'Neal*, with this case, Civil Action No.: 5:16-CV-00810, *Cassandra Poppen v. Fletcher Transport, Inc. and Jason O'Neal*.

## II. Arguments & Authorities

8. The Federal Rules of Civil Procedure allow for consolidation of these two actions to prevent unnecessary cost or delay when the matters at issue involve common questions of law or fact. Fed. R. Civ. P. 42(a).

9. As evidenced by the pleadings, both these cases are derived from the motor vehicle collision that occurred on or about September 23, 2015 on Interstate 410 in Bexar County, Texas. Accordingly, both lawsuits share common questions of law and fact. For this reason, the same witnesses will likely be called to testify on behalf of all the parties in both cases. All evidence on the issues of liability will be the same. As a result, judicial economy and convenience support the consolidation of these two separate actions.

10. The parties have engaged in written discovery, but no depositions have been taken to-date. Consolidation will avoid multiplicity of suits, duplication of testimony, and unnecessary expense and

delay. Moreover, consolidation would avoid the unnecessary litigation costs for all parties, such as court costs, expert testimony costs, attorneys' fees, etc.

### III. Conclusion

11. Because Plaintiff Daniel Tashi's lawsuit arises out of the same incident and all of the parties' counsel are unopposed to the consolidating these cases, Mr. Tashi's lawsuit should be consolidated into this lawsuit for the reasons discussed above.

### IV. Prayer

WHEREFORE, PREMISES CONSIDERED, Defendants pray that this cause be consolidated with Civ. No. 5:17-CV-119-DAE, *Daniel Tashi v. Fletcher Transport, Inc. and Jason O'Neal*. Praying further, Defendants pray for such other and further relief, either at law or in equity, to which Defendants may be justly entitled.

Respectfully submitted,

CHAMBLEE, RYAN, KERSHAW & ANDERSON, P.C.

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AND JASON O'NEAL

CERTIFICATE OF CONFERENCE

I do hereby certify that counsel has complied with the meet and confer requirement of Rule CV-7(h) of the Court's Local Rules. Specifically, on February 10, 2017, a conference was conducted with counsel for both Plaintiffs. Counsel for Plaintiff Cassandra Poppen and Plaintiff Daniel Tashi indicated that they were unopposed to this motion.

/s/ Christopher B. Wood

Christopher B. Wood

CERTIFICATE OF SERVICE

I do hereby certify that on February 20, 2017 a true and correct copy of the above and foregoing document has been forwarded via e-service and/or via fax to all counsel of record:

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